THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36425 of 1998

Dated:20.04.2007

Between
K.Agamaiah

.....Petitioner

and

1.State of AP rep., its Secretary
Education Department (SE)
Secretariat, Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36425 of 1998

ORDER:

This writ petition is filed seeking to declare the action of the respondents in not granting the pensionary benefits to the petitioner as arbitrary and illegal and consequently direct the respondents to grant pensionary benefits to the petitioner as per rules.

It appears that the petitioner was appointed as a Hindi Pandit, Grade-II on a consolidated salary of Rs.120 per month *vide* proceedings dated 4.10.1992 of the 4th respondent. Thereafter, the 4th respondent has extended the pay scale as applicable to the Government teachers with effect from

12.6.75. Subsequently, the case of the petitioner was recommended for admitting the post into grant-in-aid along with others. However, only 8 posts were admitted to grant-in-aid and the post held by the petitioner was not admitted to grant-in-aid. Therefore, the respondent again recommended the case of the petitioner and sent proposals in the year 1988 for admission of the post held by the petitioner. Pursuant to the G.O.Ms.No.278, Education dated 24.7.1990, the petitioner was absorbed in grant-in-aid vacancy as per the proceedings in Rc.No.1331/A7/91, dated 19.3.1991 of the District Educational Officer, Medak with effect from 1.11.1989. Thereafter, on attaining the age of superannuation on 31.1.94 he retired from service. In all, the petitioner had put in 21 years and three months uninterrupted service and worked in the aided vacancy from 24.7.90 till the date of his retirement. But unfortunately the respondents have computed the service in the

aided vacancy from the date of approval by the District Educational Officer with effect from 1.11.89. Thus, the petitioner had fallen short of 9 months for 5 years of service in the aided vacancy. Thus, he was denied pensionary benefits. Under those circumstances, he filed a representation dated 10.10.94 before the Director of School Education, Hyderabad and the said representation was rejected by communication dated 23.3.1998. Hence this writ petition.

A detailed counter-affidavit has been filed by the respondents 1 to 3 denying the allegations made by the petitioner. It is asserted that the services of the petitioner were regularized with effect from 1.11.89 as per the proceedings of the District Educational Officer, Medak dated 19.3.1991. The service rendered by the petitioner in an unaided post shall not be counted for the purpose of pension. Therefore, the petitioner is not entitled for computation of his service from the

date of issuance of G.O.Ms.No.278 dated 24.7.1990. Further, there is no provision in the Revised Pension Rules 1980 for condonation of deficiency in service.

Heard both sides.

The only aspect that requires to be adjudicated in this writ petition is as to whether the petitioner is entitled for any regularization of deficiency of the service for the purpose of granting pension under AP Revised Pension Rules 1980.

In fact, there is a provision under Rule 54 of AP Revised Pension Rules, 1980, which reads as under:

> *Where Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, Government may, by order for reasons to be recorded in writing; dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary, for dealing with the case in a just and equitable*

manner.

Provided that no such order shall be made except with the concurrence of the Finance and Planning (FW) Department.

There is no dispute as to the facts. The petitioner retired from service on attaining the age of superannuation on 31.1.1994 after rendering 21 years 3 months continuous service in the 4th respondent school. It is his case that way back in 1982 though the Management sent proposals for admitting the post held by him, the same was not considered by the Government. However, in view of the proposals sent by the Management in the year 1988, the Government issued G.O.Ms.No.278, Education dated 24.7.1990 and ultimately his absorption into the said aided post was considered with effect from 1.11.1989. It is a very hard case where the petitioner after serving the school for more than 21 years three months continuously, was denied

pension on the ground that he had not put in the minimum required service of five years in the aided vacancy. But, it is an admitted fact that the 4th respondent sent proposals in 1988 and there seems to be some delay in issuing G.O.Ms.No.278 dated 24.7.1990 and therefore, the post was admitted to grant in aid only with effect from 1.11.1989, which resulted in deficiency of 9 months for the purpose of considering the case of the petitioner for grant of pension under AP Revised Pension Rules, 1980. The petitioner worked for more than 21 years and three months. Under those circumstances, I deem it appropriate to direct the respondent Nos.1 and 2 to consider the case of the petitioner for extending the relaxation of deficiency of 9 months as a special case while exercising powers under Section 54 of the AP Revised Pension Rules, 1980. This exercise shall be completed by the respondents 1 and 2 within a period of three months from the date of receipt of a copy of

this order and communicate the same to the petitioner.

With the above direction, the writ petition is disposed of. No costs.

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20-04-2007

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